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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,833	01/08/2002	Pieter Van Dine	A34154	2661
22930	7590	08/23/2004	EXAMINER	
HOWREY SIMON ARNOLD & WHITE LLP ATTEN: MARGARET P. DROSOS, DIRECTOR OF IP ADMIN 2941 FAIRVIEW PARK DR, BOX 7 FALLS CHURCH, VA 22042				COMAS, YAHVEH
		ART UNIT		PAPER NUMBER
				2834

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/040,833	VAN DINE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yahveh Comas	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments, see pages 2-7, filed 5/26/2004, with respect to claims 1-20 have been fully considered and are persuasive. The rejection of claims 1-20 has been withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1, 2, 6-8, 10-11, 15-16 and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Murakami et al. JP patent No. JP 2001231213a.

Murakami discloses a liquid environment, and an electric motor configured to operate in the liquid environment, wherein the electric motor further comprises a stator (7), a rotor (8) supported for rotation within the stator (7), a preformed cylindrical composite can member removable affixed to one of the stator (7) and the rotor (8), and at least one sealing ring for sealing (33) the cylindrical can member to the member to which it is affixed. The composite can member is removable affixed by screws (16) and comprises a fiber-reinforced polymer material such as carbon.

Referring to claims 8, no patentable weight has been given to the method of manufacturing limitations (i. e. dry lay-up resin transfer molding, wet and pre-impregnated, and filament winding techniques) since "even though product-by-process

claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-8 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over R.F. Harland U.S. Patent No. 2,993,449 in view of Murakami et al. JP

Patent No. JP 2001231213a and in further view of Kohihaas et al. U.S. Patent No. 6,454,547.

Harland discloses a liquid environment, and an electric motor configured to operate in the liquid environment, wherein the electric motor further comprises a stator (12), a rotor (25) supported for rotation within the stator (12) but doesn't disclose

- A preformed cylindrical composite can member removably affixed to one of the stator and rotor, and at least one sealing ring for the sealing the cylindrical can member to the member which it is affixed.
- The composite can member has a surface facing a space between the rotor and the stator in which ridges are formed to control flow of liquid through the space

However, as discloses above, Murakami discloses cylindrical composite can member removably affixed to one of the stator and rotor, and at least one sealing ring for the sealing the cylindrical can member to the member which it is affixed in order to improve can strength between a stator and a rotor.

However, Kohihaas discloses a composite can member having a surface facing a space between the rotor (4) and the stator (3) in which ridges are formed to control flow of liquid through the space. The ridges extend at an angle to a plane perpendicular to the axis of the motor circumferentially around the surface of the composite can member facing the space between the rotor (4) and the stator (3).

Referring to claims 8, no patentable weight has been given to the method of manufacturing limitations (i. e. dry lay-up resin transfer molding, wet and pre-

impregnated, and filament winding techniques) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Therefore it would have been obvious to one having skill in the art at the time the invention was made to modified Harland inventions and provide a composite can member between the stator and the rotor as disclosed by Murakami, and a surface facing a space between the rotor and the stator in which ridges are formed to control flow of liquid through the space as disclosed by Kohihaas since that would had been desirable to provide a delivery unit constructed in a particularly compact manner and cost-effective to produce, and to improve can strength between a stator and a rotor.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al. JP Patent No. JP 2001231213a in view of Kohihaas et al. U.S. Patent No. 6,454,547 and in further view of Yamamoto JP Patent No. 03049544a.

Murakami in view of Kohihaas discloses the claimed invention except for the rotor includes an outer composite can member formed by winding the material onto the surface of the rotor. As disclosed above, Kohihaas teach that the rotor and the stator are cast with resin (column 2, lines 12-20) but fail to disclose winding the material onto the surface of the rotor. However, Yamamoto discloses outer composite can member

formed by winding the material (6) onto the surface of the rotor (1) in order to improve quality against a centrifugal force.

Therefore, it would have been obvious to one having skill in the art at the time the invention was made to modify Murakami's invention and made the rotor includes an outer composite can member formed by winding the material onto the surface of the rotor as disclosed by Yamamoto since that would had been desirable to improve quality against a centrifugal force.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yahveh Comas whose telephone number is (571)272-2020. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KARL TAMAI  
PRIMARY EXAMINER

